

RULE 403.2

Fugitive Dust Control for the Mojave Desert Planning Area

(A) General

(1) Purpose

- (a) To ensure that the NAAQS for PM₁₀ will not be exceeded due to anthropogenic sources of fugitive dust within the MDPA; and
- (b) To implement the control measures contained in the Mojave Desert Planning Area Federal PM₁₀ Attainment Plan.

(2) Applicability

- (a) The requirements of this Rule shall apply to owners or operators of sources in the following categories within the MDPA:
 - (i) Construction/Demolition Activity;
 - (ii) Heavily Traveled Publicly Maintained Unpaved Roads;
 - (iii) Weed suppression activity;
 - (iv) Limestone processing activity in the Lucerne Valley Area; and
 - (v) Activities on Bureau of Land Management (BLM) land.

(3) Conflicts with Other District Rules

- (a) If there is a conflict between the provisions of this Rule and those of District [Rule 403](#), the conflicting provisions of District [Rule 403](#) are superseded.


(B) Definitions

For the purposes of this Rule, the following definitions shall apply:

- (1) “Active Operation” - Activity capable of generating Fugitive Dust, including, but not limited to: Bulk Material storage, handling and processing; Earth-Moving Activity; Construction/Demolition Activity; and movement of vehicles on Unpaved Roads.

- (2) “Air Pollution Control Officer” (APCO) - The person appointed to the position of Air Pollution Control Officer of the District pursuant to the provisions of California [Health & Safety Code §40750](#), and his or her designee.
- (3) “Alternative PM₁₀ Control Plan” (ACP) - A plan that incorporates emission reducing measures other than those source-specific measures in [section \(C\)](#), and generates Equivalent Emission Reductions.
- (4) “Baseline Emissions” - A specific PM₁₀ emissions level calculated as the product of an emission rate (pounds of PM₁₀ per unit of operations) and an activity rate (number of operations per day). Calculated pursuant to [section \(G\)\(7\)\(a\)](#).
- (5) “Bulk Material” - Sand, gravel, soil, aggregate and any other organic or inorganic solid matter capable of releasing fugitive dust.
- (6) “California Air Resources Board” (ARB) - The California State Air Resources Board, the powers and duties of which are described in [Part 2 of Division 26 of the California Health and Safety Code \(commencing with section 39500\)](#).
- (7) “Construction/Demolition Activity” - Any on-site mechanical activity preparatory to or related to building, altering, rehabilitating, demolishing or improving property that results in Disturbed Surface Area, including the following activities: grading; excavation; loading; crushing; cutting; planing; shaping; or ground breaking, but excluding activities related to MDAQMD-permitted industrial operations.
- (8) “Disturbed Surface Area” - Portion of the earth’s surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition, thereby increasing the potential for emission of Fugitive Dust. Does not include area restored to a natural state with vegetative ground cover and soil characteristics similar to adjacent or nearby natural conditions.
- (9) “Earth-Moving Activity” - Grading, earth cutting and filling, loading or unloading of dirt or other Bulk Materials, adding to or removing from Open Storage Piles of Bulk Materials, landfilling, or soil mulching.
- (10) “Enforceable” - Included in a Permit To Operate (PTO) or otherwise subject to enforcement by the District, and submitted as a source-specific SIP revision.
- (11) “Equivalent Emission Reductions” - Real, Enforceable, Permanent, Quantifiable, and Surplus emission reductions equal in amount to 120 percent of those required by [section \(C\)](#). Such emission reductions shall be calculated relative to Baseline Emissions. In addition, such emission reductions shall be demonstrated to be equivalent to the reductions required by [section \(C\)](#) using an USEPA-approved modeling demonstration.

- (12) “Federal Clean Air Act” (FCAA) - [42 United States Code §7401 et seq.](#)
- (13) “Fugitive Dust” - Those solid Respirable Particulate Matter emissions that become airborne, other than those emitted from an exhaust stack, chimney, or vent. Fugitive emissions are directly or indirectly caused by the activities of man.
- (14) “Heavily Traveled” - Typically carrying more than 800 vehicle trips per day.
- (15) “High Winds” - When wind gusts exceed 40 kilometers (25 miles) per hour or, on an hourly average, when wind speeds exceed 24 kilometers (15 miles) per hour. The average wind speed determination shall be on a 15 minute average at the nearest meteorological station or by wind instrument on site.
- (16) “Lucerne Valley Area” - That portion of the MDPA bounded in the south by the township line common to T2N and T3N, in the east by the range line common to R2E and R3E, in the north by the town ship line common to T5N and T6N, and in the west by the range line common to R2W and R1W (see [Map One](#)).
- (17) “Mojave Desert Planning Area” (MDPA) - That portion of San Bernardino County: north and east of a line running east from the Los Angeles County boundary along the township line common to T3N and T2N, then south along the range line common to R2E and R3E; and south and west of a line running east from the Kern County boundary along the township line common to T11N and T12N, then south along the range line common to R4E and R5E, then south and east along the western and southern boundaries of the Twentynine Palms Marine Corps Air Ground Combat Center, then south along the range line common to R12E and R13E (see [Map One](#)).
- (18) “National Ambient Air Quality Standards” (NAAQS) - Standards set by the Federal Government that define the acceptable amount of criteria pollutants in the air. Achievement of these standards protects the public’s health and welfare.
- (19) “Off Highway/Off-Road Recreation Vehicle” (OHV) - Any motorized vehicle primarily defined as an all-terrain motor vehicle, motorcycle, motorbike, ATC, ATV, motor buggy and/or four wheel drive light utility vehicle.
- (20) “Open Storage Pile” - Any accumulation of Bulk Material not fully enclosed, covered or chemically stabilized with five percent or greater silt content. Pile silt content shall be assumed to be five percent or greater, unless a person can show the silt content is less.
- (21) “Permanent” - Contained in a permit or other instrument which ensures achievement on each and every operating day, and submitted as a source-specific SIP revision.

- (22) “Publicly Maintained” - Under the jurisdiction of, and physically maintained by, State, County, or local government.
- (23) “Quantifiable” - Able to be measured and/or calculated before and after a reducing action using the same test methods and/or calculation procedures.
- (24) “Reasonably Available Control Technology” (RACT) - Any device, system, process modification, apparatus, technique, or combination of the above which results in the lowest emissions rate and which is reasonably available considering technological and economic feasibility, as defined by MDAQMD regulations as of the date of application.
- (25) “Reasonably Available Control Measure” (RACM) - A control measure included in the control strategy presented within the “Final Mojave Desert Planning Area Federal PM₁₀ Attainment Plan,” as adopted July 31, 1995.
- (26) “Real” - Represents a reduction in actual emissions.
- (27) “Respirable Particulate Matter” (PM₁₀) - Any material , except uncombined water, existing in a finely divided form as a liquid or solid at standard conditions whose mean aerodynamic diameter is smaller than or equal to 10 micrometers as measures by a reference method based on 40 CFR 50, Appendix J and designated in accordance with 40 CFR 53; or methods found in Article 2, Subchapter 6, Title 17, California Code of Regulations (commencing with §94100);  any equivalent method designated in accordance with 40 CFR 53.
- (28) “Stabilize” - To reduce the fugitive dust generating capability of a surface by paving, chemically treating, watering, or compacting, sufficient to eliminate Visible Fugitive Dust. Chemical treatment must be performed with a substance approved for such use by the applicable Regional Water Quality Control Board.
- (29) “Surplus” - In excess of emission reductions which are otherwise required by Federal, State, or District law, rule, order, permit, or regulation. Proposed District laws, rules, or regulations which have been taken to public workshop are applicable for purposes of this definition.
- (30) “Trackout” - Visible Bulk Material deposited upon public roadways as a result of Active Operations.
- (31) “Unpaved Road” - Any vehicle travel route not covered by one or more of the following: concrete, asphaltic concrete, or asphalt.
- (32) “United States Environmental Protection Agency” (USEPA) - The Administrator of the Environmental Protection Agency or the appropriate designee.

- (33) “Visible Fugitive Dust” - Dust emissions from a fugitive source as dark as or darker in shade than that shade designated No. 1 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of equivalent opacity, for a period or periods aggregating more than three minutes in any one hour.

(C) Requirements

- (1) The owner or operator of a source in an affected source category shall comply with the applicable requirements contained in this subsection unless and until the owner or operator has applied for and obtained a District-approved ACP pursuant to section (G).
- (2) The owner or operator of any Construction/Demolition source shall:
- (a) Use periodic watering for short-term stabilization of Disturbed Surface Area to minimize visible fugitive dust emissions. For purposes of this Rule, use of a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes shall be considered sufficient to maintain compliance;
 - (b) Take actions sufficient to prevent project-related Trackout onto paved surfaces;
 - (c) Cover loaded haul vehicles while operating on Publicly Maintained paved surfaces;
 - (d) Stabilize graded site surfaces upon completion of grading when subsequent development is delayed or expected to be delayed more than thirty days, except when such a delay is due to precipitation that dampens the disturbed surface sufficiently to eliminate Visible Fugitive Dust emissions;
 - (e) Cleanup project-related Trackout or spills on Publicly Maintained paved surfaces within twenty-four hours; and
 - (f) Reduce non-essential Earth-Moving Activity under High Wind conditions. For purposes of this Rule, a reduction in Earth-Moving Activity when visible dusting occurs from moist and dry surfaces due to wind erosion shall be considered sufficient to maintain compliance.
- (3) The owner/operator of a Construction/Demolition source disturbing 100 or more acres shall, in addition to the provisions of subsection (2):

- (a) Prepare and submit to the MDAQMD, prior to commencing Earth-Moving Activity, a dust control plan that describes all applicable dust control measures that will be implemented at the project;
 - (b) Provide Stabilized access route(s) to the project site as soon as is feasible. For purposes of this Rule, as soon as is feasible shall mean prior to the completion of Construction/Demolition activity;
 - (c) Maintain natural topography to the extent possible;
 - (d) Construct parking lots and paved roads first, where feasible; and
 - (e) Construct upwind portions of project first, where feasible.
- (4) Cities, Towns, and the County of San Bernardino shall collectively:
- (a) Stabilize sufficient Publicly Maintained Heavily Traveled unpaved roads to reduce fugitive dust entrainment and wind erosion by at least 1541 tons per year of PM₁₀ emissions within the MDPA.
- (5) The Owner or Operator of a site undergoing weed abatement activity shall not:
- (a) Disrupt the soil crust to the extent that Visible Fugitive Dust is created due to wind erosion.
- (6) The owner or operator of a limestone processing facility shall:
- (a) Stabilize industrial Unpaved Roads carrying more than ten vehicle trips per day with the majority of those vehicles weighing 30 tons or more;
 - (b) Enclose exterior belt conveyors sufficiently to cover the top and sides of the Bulk Material being transferred, or employ an alternate dust suppression system sufficient to prevent Visible Fugitive Dust;
 - (c) Manage or treat Bulk Material Open Storage Piles sufficiently to prevent Visible Fugitive Dust emissions. For purposes of this Rule, active watering during visible dusting episodes shall be sufficient to maintain compliance;
 - (d) Cover loaded Bulk Material haul vehicles while traveling upon publicly maintained paved surfaces;
 - (e) Employ a dust suppression system at Bulk Material transfer points sufficient to prevent Visible Fugitive Dust;

- (f) Stabilize or eliminate Bulk Material Open Storage Piles that have been or are expected to be inactive for at least one year;
 - (g) Stabilize as much unpaved operations area as is feasible;
 - (h) Vacuum sweep Bulk Material spills on paved surfaces weekly or more often, as needed;
 - (i) Prevent facility-related Bulk Material Trackout on Publicly Maintained paved surfaces;
 - (j) Clean up facility-related Bulk Material Trackout and spills on Publicly Maintained roads within twenty-four hours; and
 - (k) Employ belt cleaners and/or conveyor return scrapers to minimize conveyor spillage.
- (7) The BLM shall prepare a dust control plan that includes the following fugitive dust control measures:
- (a) Stipulate that all new authorizations for stationary emission sources obtain all necessary MDAQMD permits and satisfy all applicable SIP provisions, including project- or activity-specific RACM;
 - (b) Control dust emissions from certain roads and routes as per the Wilderness classification in the California Desert Protection Act;
 - (c) Control dust emissions from certain roads and routes as identified through general BLM planning;
 - (d) Implement those PM₁₀ control measures required to manage organized off-road events and/or competitions on public land;
 - (e) Use BLM-standard road design and drainage specifications when maintaining existing roads or authorizing road maintenance and new road construction; and
 - (f) Include public educational information on PM₁₀ emissions with BLM open area literature and on information signs in heavily used areas.

(D) Exemptions



- (1) The requirements of this Rule shall not apply to:
 - (a) Agricultural operations, as defined by [California Health and Safety Code §41704\(b\)](#);
 - (b) Actions required by federal or state endangered species legislation;
 - (c) Actions that could be considered prohibited habitat modification under the federal or state endangered species legislation or require Section 10(a) or 2081 review;
 - (d) Construction/Demolition projects disturbing less than one-half total acre or 21,780 square feet;
 - (e) Active Operations conducted during emergency situations, or in conjunction with any officially declared disaster or state of emergency;
 - (f) Active Operations conducted by essential service utilities to provide electricity, natural gas, telephone, water and sewer services during periods of service outages and emergency disruptions;
 - (g) Non-periodic (occurring no more three times per year and lasting less than thirty cumulative days per year) or emergency maintenance of flood control channels and water spreading basins;
 - (h) Blasting operations as permitted by the [California Occupational Safety and Health Administration](#);
 - (i) Emergency fire suppression operations ordered, performed or sanctioned by Federal, state or local government (including, but not limited to, creation of fuel breaks);
 - (j) A Construction/Demolition contractor, after the time the contract ends, provided that such contractor satisfied the requirements of this Rule during the contractual period;
 - (k) A grading contractor, for a phase of Active Operations after the contractual completion of that phase of Earth-Moving Activity, through and including five days after the final grading inspection;
 - (l) Weed abatement operations disturbing less than one acre on a lot that includes a residence;

- (m) Construction/Demolition activities and/or weed abatement operations performed to maintain easements and/or roadways (including shoulders);
- (n) Dust generated by mowing performed for weed abatement purposes;
- (o) Casual, informal recreational use of public land, including, but not limited to Off-Road Recreational Vehicle use; and
- (p) Those BLM roads and routes administered by the Federal Highway Administration and the National Recreation Trails Fund Act.

(E) Recordkeeping

- (1) The owner or operator of an affected source shall maintain a Dust Control Plan as required by [Sections \(C\)\(3\)](#) and [\(C\)\(7\)](#) on site, or readily accessible, for at least two years after the date of each entry. Such records shall be provided to the District upon request.

(F) Test Methods

- (1) Compliance with the provisions of this Rule shall be determined as follows:
 - (a) For PM₁₀ emission and reduction calculations other than unpaved roads: amounts shall be calculated using [USEPA “Control of Open Fugitive Dust Sources” \(EPA-450/3-88-008\)](#).  PM₁₀ emission and reduction calculations for unpaved roads: amounts shall be calculated using [USEPA AP-42 Section 11.2.1](#). For purposes of this Rule, the following values may be used as defaults, in the absence of specific data: silt content of 15 percent, vehicle average weight of three tons and four wheels, and 20 days with greater than 0.01 inch of precipitation.
 - (b) Compliance with the requirement “Cover Haul Vehicles” is equivalent to complying with the vehicle freeboard requirements of the [California Vehicle Code \(§23114\)](#) on both public and private paved roads.
 - (c) Silt content shall be determined through sampling and analysis in accordance with [ASTM Method C-136-92](#).  Results of [ASTM Method C-136-92](#) are valid for 60 days from the date the sample was taken.
- (2) Alternative test methods may be used upon obtaining the approval of the Air Pollution Control Officer, CARB and USEPA.

(G) Alternative PM₁₀ Control Plans (ACPs)

- (1) An owner or operator of a source may, at any time after the adoption of this Rule, apply for and obtain District approval for an ACP as set forth in this subsection.
- (2) Application
 - (a) The owner or operator may apply for an ACP by submitting a plan to the District which includes the following elements:
 - (i) Name(s), address(es), and phone number(s) of the official(s) responsible for the preparation, submittal and implementation of the ACP;
 - (ii) Description and location of operations;
 - (iii) Listing of all Active Operations included in subsection (G)(2)(a)(ii) generating Fugitive Dust emissions;
 - (iv) Estimation of baseline, annual, and daily emissions from each source identified in subsection (G)(2)(a)(iii);
 - (v) Description of actions required by the applicable portion of section (C);
 - (vi) Descriptions of actions proposed to generate Equivalent Emission Reductions instead of subsection (G)(2)(a)(v). Such description shall be sufficiently detailed to demonstrate Real, Enforceable, Permanent, Quantifiable, and Surplus Equivalent Emission Reductions during all periods of Active Operations;
 - (vii) Commitment to a post-approval monitoring program to evaluate the effectiveness of subsection (G)(2)(a)(vi) actions; and
 - (viii) Description of contingency measures for implementation if actions proposed for subsection (G)(2)(a)(vi) prove insufficient.
 - (ix) An application for an ACP which proposes using add-on controls to achieve Equivalent Emission Reductions shall specify test methods for both the emission collection system and the control system.
- (3) Issuance Procedure
 - (a) The owner or operator of a source electing to obtain an approved ACP shall submit an application for an ACP to the APCO in writing.
 - (i) The owner or operator shall remain subject to federal enforcement of existing section (C) and SIP limits, unless and until USEPA approves the ACP as a source specific SIP revision pursuant to 42 U.S.C. §7410(a)(3)(A) (FCAA §110(a)(3)(A)).

- (b) The APCO shall either approve, conditionally approve, or disapprove a proposed ACP, in writing, within thirty (30) calendar days of receipt of the ACP, based on the following criteria:
 - (i) The proposed ACP demonstrates Equivalent Emission Reductions to those required under section (C);
 - (ii) The proposed ACP does not result in a net increase in any Baseline Emission of an air pollutant regulated, proposed for regulation, listed or the subject of a “notice-of-intent-to-list” pursuant to the provisions of 42 U.S.C. §7412, National Emission Standards for Hazardous Air Pollutants (FCAA §112). The Baseline Emissions of a hazardous pollutant shall be determined by the lower of either actual or NESHAPS’ allowable emissions;
 - (iii) Add-on controls shall not be considered part of an approved ACP unless such controls are incorporated in an emissions averaging approach to compliance; and
 - (iv) The proposed ACP complies with all applicable requirements of section (G).
- (c) If the APCO conditionally approves an ACP, the APCO shall notify the applicant in writing of the ACP’s conditional approval and of the deficiencies which require corrections.
 - (i) The applicant shall submit a revised ACP within ninety (90) days of APCO notice or the conditionally approved ACP is automatically deemed disapproved. The APCO shall evaluate the revised ACP based upon the criteria of subsection (G)(3)(b).
- (d) If the APCO approves an ACP, the APCO shall notice a public hearing regarding the proposed ACP before the Governing Board of the District.
 - (i) Such notice shall be published in a newspaper of general circulation at least 30 days prior to the meeting of the Governing Board at which the public hearing is scheduled to take place.
- (e) After the APCO approves the proposed ACP, the permits for any existing permit units included in the ACP shall be surrendered and new permits incorporating provisions of the ACP shall be issued.
 - (i) ACP emission reductions which are accomplished through equipment shutdown or production curtailment shall have their permanency ensured by a permit or other instrument which limits the total PM₁₀ emissions from the equipment in question.

- (ii) Notwithstanding provisions of District [Rule 219](#), if the ACP encompasses the operation of equipment not requiring a permit, such equipment shall lose its exemption status and require a permit.
 - (f) At the public hearing, the APCO shall recommend that the Governing Board adopt the approved ACP for submission to ARB as a SIP submittal.
 - (g) If adopted by the Governing Board, the ACP shall thereafter be submitted by the APCO to ARB for submittal to USEPA as a source-specific revision to the SIP.
- (4) Renewal
- (a) An approved ACP shall be valid for a period of one year from the date of approval by the APCO.
 - (b) Approved ACPs shall be resubmitted, annually, at least 90 days prior to their expiration date.
 - (i) If all Fugitive Dust sources and emission reduction-producing actions remain identical to those identified in the previously approved ACP, the resubmittal may contain a simple statement of “no change” and the ACP shall be valid for an additional year. Otherwise a resubmittal shall conform to the requirements of [subsection \(G\)\(2\)](#).
 - (c) The APCO shall send a list of all approved and renewed ACPs to USEPA on an annual basis.
- (5) ACP Recordkeeping
- (a) The owner or operator operating under an approved ACP shall maintain daily operating records, source tests, laboratory analyses, monitoring data, data required to support ACP elements specified in [subsection \(G\)\(2\)\(a\)](#), and any other appropriate information in a manner and form sufficient to determine the compliance of the owner or operator with the ACP on a twenty-four (24) hour basis.
- (6) Violations
- (a) Failure to comply with any provisions in an approved or conditionally approved ACP shall constitute a violation of this Rule.

(7) Calculations

(a) Baseline Emission calculations:

- (i) Shall use the lowest of either: (1) the actual emission rate; (2) SIP allowable emission limit; or (3) RACT limit. Calculations shall use the lowest of either actual or SIP allowable values for the activity rate;
- (ii) Shall use, for activity rate actual values, the average values from data for two years directly preceding the source's application for an ACP, unless another two year period can be shown to better represent the source's normal allowable operations to the satisfaction of the APCO and the USEPA. Sources lacking specific daily activity records may substitute other records that establish daily PM₁₀ emissions; and
- (iii) Shall include data for all permit units included in the ACP.

(H) Contingency Measures

- (1) The requirements of this section only apply if USEPA makes a finding, as evidenced by publication in the Federal Register, that:

- (a) The MDPA has failed to make reasonable further progress toward attainment of the PM₁₀ NAAQS; or
- (b) There has been a violation of the PM₁₀ NAAQS within the MDPA between January 1, 1998 and December 31, 2000.

(2) Contingent Requirements

- (a) Cities, Towns and the County of San Bernardino shall:
 - (i) Stabilize sufficient Unpaved Roads to generate at least 2,267 tons per year of fugitive PM₁₀ emission reductions.

(I) Compliance Schedule

- (a) Any owner or operator of a weed abatement source shall comply on and after December 31, 1996;
- (b) Any owner or operator of a Construction/Demolition source shall comply on and after December 31, 1996;

- (c) Any owner or operator of a limestone processing facility shall comply on and after December 31, 1997;
- (d) Cities, Towns, and the County of San Bernardino shall comply on and after December 31, 1997; and,
- (e) The BLM shall comply with the following compliance schedule:
 - (i) Submit a draft Dust Control Plan addressing all applicable portions of Section (C) on or before September 30, 1996, to which the APCO shall respond within 60 days;
 - (ii) Submit a final Dust Control Plan addressing all APCO comments on or before December 31, 1996, which the APCO shall transmit to ARB for submission to USEPA as a SIP revision; and
 - (iii) Implement all Dust Control Plan elements on or before December 31, 1997.

[SIP: Submitted as adopted 7/22/97 on 10/18/96]

Map One

Mojave Desert Planning Area and Lucerne Valley Area

